

App. Serial No.: 09/617,361
Atty. Docket No.: 0013-011

REMARKS

These remarks are in response to the final Office Action mailed March 25, 2004 and the Advisory Action mailed July 29, 2004. A Notice of Appeal was filed by Applicant on June 24, 2004. The Notice of Appeal has a shortened statutory period for filing an appeal brief set to expire on or about August 24, 2004. A three-month extension of time, to expire on or after November 24, 2004, is requested in a petition filed herewith.

A Request for Continued Examination, including the required fee, is also filed herewith.

Claims

Claims 1-12, 14-28, 30-44, and 46-54 are pending in the above-identified application. Claims 1-12, 14-28, 30-44, and 46-54 are rejected over prior art. Claims 16 and 32 are currently amended and Claims 2-7, 9-12, 14-15, 18-23, 25-28, 30-31, 33-44, and 46-48 remain as filed. Claims 1, 8, 17, and 24 were previously amended, Claims 13, 29, and 45 were previously canceled, and Claims 49-54 were previously added. Reconsideration is requested.

Recent Examiner Interview Summary

An interview was held between Examiner Raquel Alvarez and Applicant's attorney, Larry E. Henneman, Jr. on October 27, 2004 to discuss the status of the case and the previous rejections made by Examiner Melanie Kemper, whom Examiner Alvarez has replaced.

In a telephone conversation prior to the interview, Examiner Alvarez indicated that a new reference, U.S. Patent No. 6,422,462 (Cohen), had been discovered and was believed to be relevant to the prosecution of present application. Although there are no pending rejections over the Cohen reference, distinctions between Applicant's invention and Cohen will be presented below during discussion of the claims in an attempt to expedite the prosecution of this application.

During the interview, Mr. Henneman pointed out that the third-party verification feature of Applicant's invention was clearly not disclosed by any of the known prior art, including the Cohen reference. Claims 16 and 32 are directed to this subject matter, and were somewhat difficult to interpret. Mr. Henneman agreed to file an RCE with an amendment to these claims, so that the third party verification aspect is made clearer. Examiner Alvarez agreed to contact Mr.

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Henneman if there is any issue of interpretation which results in the amended claims reading on the prior art of record.

Previous Interview

An interview summary was filed along with a previous response dated December 8, 2003 regarding the telephone interview held between Examiner Melanie Kemper and Applicant's attorney Larry E. Henneman, Jr. on November 19, 2003. During the interview, three distinguishing aspects of Applicant's invention were discussed, which Applicant believes are not taught or suggested in either of the cited references (USPN 5,708,422 to Blonder et al. and USPN 6,529,725 to Joao et al.) either alone or in combination. The substance of the interview is re-presented herein for convenience.

I. Performing Verification Via A Remote Server

Original Claims 16 and 32 were directed to an embodiment of the invention where verification of transactions with an account-holder is accomplished by a computer that is remote with respect to the computer of the financial institution (e.g. a credit card company). Applicant referred to Fig. 1 of the drawings as an example, where the verification function can be accomplished by a verification company 108 that is remote from credit card company 106. The Examiner agreed that this aspect of Applicant's invention was not disclosed in the cited references, but indicated that Claims 16 and 32 did not clearly recite this subject matter. Claims 16 and 32 were amended for clarity. Further, independent Claims 50 and 53 were added, also clearly reciting the subject matter.

II. Account-holder Enablement/Disablement of the Verification Function

Original Claims 13 and 29 were directed to embodiments wherein the account-holder can selectively disable the verification function. Applicant pointed out that neither of the cited references disclosed this aspect of Applicant's invention. Although at least one of the cited references disclosed fields for criteria that would trigger verification, no means was provided for the card-holder to change these values. Rather, it appeared that the criteria were set by the credit card company, presumably according the customer's preferences, and would need to be changed by the credit card company. According to Applicant's invention, however, the card-holder can

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selectively enable/disable the verification function him/herself. For example, prior to dining out a card-holder could phone in and disable the verification function. Then, when paying for dinner with the card, the transaction would be approved in the conventional manner without verification (and the associated delay). After the transaction was processed, the card-holder could then phone in and turn the verification function back on again.

No agreement was reached with respect to whether this subject matter was allowable over the cited references. The unresolved issue was whether a device programmed to respond to verification requests on behalf of the account-holder can be fairly characterized as disabling the verification function. Applicant respectfully asserts that it cannot.

In the previous amendment the subject matter of Claims 13 and 29 were amended into independent Claims 1 and 17, respectively.

III. Verification Process Initiated by the Account-holder

Original claims 8-12 and 24-27 were directed to embodiments of the invention where the computer system waits for the account-holder to initiate the verification process. Applicant pointed out that in both cited references the server initiates the verification process by sending a notification to the card-holder, and that this could be a disadvantage where, for example, a fraudulent user has also obtained the card-holder's verification communication device. The Examiner agreed that the cited references did not disclose this feature of Applicant's invention, but indicated that the claims were not so limited. In particular, the Examiner's position was that even though the servers of the cited references sent a notification, they still "waited for the account-holder to establish a connection." The Examiner suggested adding the limitation "wherein notification to said account-holder is disabled" in order to make this distinction. Applicant agreed.

Advisory Action

An advisory action was mailed July 29, 2004 in response to Applicant's amendment filed June 24, 2004. With respect to the content of the advisory action it appears that:

- 1) Applicant's arguments concerning the 35 U.S.C. §112 first paragraph and second paragraph rejections made by Examiner Kemper in the Final Office Action dated March 25, 2004 were not deemed persuasive.

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- 2) Applicant's arguments regarding Blonder not teaching the selective enablement/disablement of the verification process by the account-holder were not deemed persuasive.
- 3) Applicant's arguments regarding Joao not teaching receiving instructions from the account-holder to selectively enable/disable the verification process were not deemed persuasive.

Arguments directed to these points will be presented below.

Rejections Under 35 U.S.C. § 112

Claims 8, 24, 49, and 51 are rejected under 35 U.S.C. § 112, first paragraph. The Examiner writes:

The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Upon further review of the specification, support for notification to the account holder being disabled was not found.

Applicant respectfully traverses.

Applicant's specification at page 17, lines 6-12 recites:

Single bit initiate verification flag 516 indicates whether card-holder 102 wishes server 200 to initiate the verification process, or if server 200 should wait for user 102 to initiate the verification process. If initiate verification flag 516 has a value of 1, interactive verification module 306 initiates the verification process with the associated card-holder (e.g., e-mail, automated telephone call, etc.). If initiate verification flag 516 has a value of 0, the associated card-holder must initiate verification (e.g., place telephone call to server 200, log onto server 200 via internetwork 110, etc.). (emphasis added)

Therefore, according to the above passage, interactive verification module 306 sends notification to the card-holder in the form of an e-mail and/or an automated telephone call if initiate verification flag 516 is set to a value of 1. Further, note that according to the methods disclosed in Applicant's specification (e.g., Figs. 7-9) notification is provided as part of the verification process. Thus, if initiate verification flag 516 is set to a value of 0, the card-holder must initiate the verification process and, because notification is a part of the verification process, the card-holder does not receive any prior notification from interactive verification

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module 306. Thus, Applicant's original specification clearly indicates that notification to the account-holder is disabled when initiate verification flag 516 is set to a value of 0.

In the Advisory action the Examiner writes:

With respect to the 112, 1st paragraph rejection, the cited pages specified by the Applicant discloses the card holder initiating verification of an account but doesn't disclose the system notifying the card holder that his or her account have been disabled. (emphasis added)

However, the issue is not whether notification is sent to the card-holder to indicate that his/her account has been disabled, but rather whether or not the card-holder is notified of a transaction approval request being received by the system. According to Applicant's disclosure as cited above, notification to the card-holder is disabled if initiate verification flag 516 is set to 0.

For at least the foregoing reasons, Applicant asserts that Claims 8, 24, 49, and 51 are clearly enabled by Applicants original disclosure. Therefore, Claims 8, 24, 49, and 51 comply with the 35 U.S.C. § 112, first paragraph. However, if the Examiner believes that this issue is one of specific words used, the Examiner is invited to suggest acceptable language.

For at least the foregoing reasons, Applicant avers that Claims 8, 24, 49, and 51 comply with 35 U.S.C. § 112, first paragraph, and respectfully requests withdrawal of the rejections of those claims.

Claim 8 is rejected under 35 U.S.C. § 112, second paragraph. The Examiner writes:

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language "operative to wait for said account-holder to initiate said connection with said account holder" is confusing. The claim was examined similar to claim 24 which includes waiting for the account-holder to initiate communication with the computer system.

Claim 8 was previously amended to recite (in part) "said authorization module includes an interactive verification module operative to wait for said account-holder to initiate said separate connection." As amended Claim 8 refers to a previously introduced element with the same terms used to introduce that element.

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In the Advisory Action, the Examiner responded to Applicant's previous arguments with respect to Claim 8 as follows:

With respect to the 112, 2nd rejection, the rejection has nothing to do with lack of antecedent basis. Instead, the rejection was confusing in nature because the claim recite an account-holder initiating a connection with himself and therefore correction is required.

Applicant did not misunderstand the rejection as a lack of antecedent basis rejection. Rather, Applicant was trying to point out that Claim 8 only appeared unclear if the clear antecedent basis for the connection provided in Claim 1 was ignored. In Claim 1, it is clear that the account-holder communications module facilitates "a separate connection with said account-holder" between the system and the card-holder, in order to verify a transaction approval request. Claim 8 merely refers to this connection by the same terms with which the connection was introduced in Claim 1. The issue is not one of lack of antecedent basis, but rather ignoring the clear antecedent basis that was provided. Claim 1 recites a connection with the account holder, and Claim 8 indicates that the account-holder initiates that previously recited connection.

Although Applicant believes that Claim 8 satisfies the requirements of 35 U.S.C. § 112, Applicant is willing to consider alternate language. For example, perhaps amending Claim 1 to read "an account-holder communications module operative to facilitate a separate connection with between said account holder and said system..." would be satisfactory to the Examiner.

The Examiner is also invited to suggest alternative language for Claim 8.

For the above reasons Applicant requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 112.

Rejections Under 35 U.S.C. § 102

Claims 1-6, 14, 16-22, 29-30, 32-38, 46, 48, 50, and 52-54 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Blonder et al. (USPN 5,708,422). Claims 1-6, 8-9, 11, 14-22, 24-25, 27, 29-38, 40-41, 43, 46-49, and 51-52 are rejected under 35 U.S.C. § 102 (e) as being anticipated by Joao et al. (USPN 6,529,725).

Applicant respectfully traverses.

The standard for anticipation is set forth in M.P.E.P. § 2131 as follows:

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"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1-6, 8-9, 11, and 14-16

As previously amended, Claim 1 recites (in part):

wherein said authorization module responsive to instructions from said account-holder is operative to automatically verify subsequent transaction approval requests without further input from said account-holder.

In the amendment filed December 8, 2003, Applicant asserted that the above limitation is not disclosed by either cited reference. In support of the rejection, the Examiner cites col. 5, lines 30-45, col. 7, lines 1-10, and col. 14, lines 35-67 of Blonder et al., and col. 11, lines 1-10 and col. 7, lines 45-67 of Joao et al.. However, it remains Applicant's position that none of the cited passages of either reference teach a module "responsive to instructions from said account-holder" that "is operative to automatically verify subsequent transaction approval requests without further input from said account-holder," as recited in Claim 1. The arguments made by Applicant in the amendment filed December 8, 2003 are maintained herein, and incorporated by reference in their entirety.

Applicant respectfully asserts that the additional passages cited by the Examiner in the Final Office Action do not teach the limitation of Claim 1 recited above. For example, Blonder et al. at col. 6, lines 5-15 and 45-50 provide:

The approval flag field 304 alerts the card issuer that credit card transactions that violate pre-established conditions need to be authorized by the card owner as part of the card validation process. These pre-established conditions may be pre-selected by the card owner or they may be conditions imposed by the card issuer. The trigger group of fields depicted in FIG. 3 illustratively shows different parameters which cause a card owner to be notified when those parameters exceed certain pre-defined thresholds. The conditions field 305 shows restrictions pre-selected by the card owners for use of their credit cards.

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It will be appreciated that only a limited number of restrictions and/or authorizations are shown in FIG. 3 for ease of explanation, even though many other restrictions, obvious to those of ordinary skill in the art, may be requested by card owners or card issuers for inclusion in the profile of FIG. 3.

These passages teach that only transactions which violate pre-established conditions will need to be authorized. This is much different than "said authorization module responsive to instructions from said account-holder is operative to automatically verify subsequent transaction approval requests without further input from said account-holder," as recited by Claim 1.

Initially, Applicant would like to point out that the above passage provides no indication that a user can connect with validation database 106 and change the pre-established conditions or that validation database 106 can receive "instructions from said account-holder." In addition, there is no indication that the pre-established conditions can completely suspend the verification process with the card-holder, such that subsequent transactions are automatically verified without further input from the account-holder. Rather, it appears that the pre-established conditions are set and remain static.

Next, Blonder et al., at column 2, lines 55-60 (line 60 of which is cited by the Examiner) provides:

In accordance with certain other illustrative embodiments, the invention provides a method and a system which allow a principal to be automatically alerted to, and/or to promptly authorize, an agent-initiated transaction which may, for example, be deemed atypical based on a pre-stored profile specified by the principle.

Again, similarly to that discussed above, this passage only discloses that notification and/or authorization by the principle may be required for agent initiated transactions based on a pre-stored profile specified by the principle. The passage does not disclose that subsequent transactions are automatically verified by the system responsive to instructions from the account holder, nor does the passage disclose a particular method for receiving instructions from the account-holder.

The Examiner states that col. 14, line 35 through col. 15, line 27 of Blonder et al. teaches that "the process does suspend the verification process such that subsequent transactions are automatically verified." Applicant respectfully disagrees. The cited passage discusses an embodiment in which a confirmation code is used to verify one future transaction (col. 14, lines 43-45, col. 15, line 9). This process, however, does not suspend the verification process, such

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that subsequent transactions are automatically verified, but only provides an alternative way to verify one particular transaction. All other transactions will require authorization by the cardholder/owner.

In the Advisory Action, the Examiner responded to Applicant's arguments with respect to Claims 1 (and 17) and Blonder as follows:

Applicant argues that Blonder doesn't teach instructions from the account-holder to automatically verify subsequent transactions approval requests. The Examiner disagrees with Applicant because the alert and approval fields selected by the card owner of Blonder can be accessed at anytime, at the present transaction and/or at any subsequent transactions thereafter and therefore it meets the claim limitations.

Applicant respectfully disagrees. Applicant has thoroughly reviewed Blonder and can find no indication that "the alert and approval fields selected by the card owner of Blonder can be accessed at anytime, at the present transaction and/or at any subsequent transactions thereafter," as stated by the Examiner. Therefore, Applicant asserts that Claims 1 and 17 distinguish over Blonder for the reasons provided above. If the Examiner wishes to maintain the position above, Applicant respectfully requests that the Examiner provide citations from the cited reference indicating that "the alert and approval fields selected by the card owner of Blonder can be accessed at anytime" so that Applicant may have a fair chance to respond.

Turning to Joao, the Examiner stated that col. 16, lines 10-35 disclose that the programmed authorization has features "including authorizing based on time, vendors, etc. at the central processing computer." The cited passage discusses a database storing specific limitations and/or restrictions that are placed on a particular account by the cardholder. Applicant respectfully asserts that placing limitations and/or restrictions on an account is different than receiving instructions from an account-holder "to automatically verify subsequent transaction approval requests without further input from said account-holder." Indeed, the passage does not teach that the cardholder can instruct the computer 3 to disable and/or modify the data stored in database 3h, such that subsequent transactions are automatically verified without further input from the cardholder. Therefore, Applicant respectfully asserts that Joao does not teach all the limitations of Claim 1.

With respect to the paragraph appearing at col. 11, lines 1-8 of Joao et al., Applicant respectfully asserts that "deferred authorization to the extent that a subsequent transaction would

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include a delayed authorization," as clarified by the Examiner, does not teach a system "wherein said authorization module responsive to instructions from said account-holder is operative to automatically verify subsequent transaction approval requests without further input from said account-holder," as recited by Claim 1. Therefore, Applicant respectfully asserts that Joao does not teach every limitation of Claim 1.

In summary, determining whether authorization is required based on predetermined authorization criteria is not the same as temporarily suspending the verification process. For example, consider the case where a particular transaction satisfies one but not all of a set of predetermined authorization criteria. According to the cited references, the transaction would not be approved without authorization by the card-holder. However, according to the invention as recited in Claim 1, the transaction would be automatically verified.

In the Advisory Action, the Examiner responded to Applicant's arguments with respect to Claims 1 (and 17) and Joao as follows:

Applicant agrees that Joao teaches "storing specific limitations and/or restrictions that are placed on a particular account by a cardholder" but argues that Joao doesn't teach receiving instructions from said account-holder. The Examiner disagrees with Applicant because if the restrictions are placed by the account holder as admitted by Applicant then the instructions as to how to handle the account must be received by the account holder.

Applicant respectfully disagrees. Applicant maintains that Joao in no way indicates that the central processing computer includes a module that "responsive to instructions from said account-holder is operative to automatically verify subsequent transaction approval requests without further input from said account-holder" for the reasons provided above.

For at least the foregoing reasons, Applicant respectfully asserts that Claim 1 is distinguishable over the prior art of record. Claims 2-6, 8-9, 11, and 14-16 depend either directly or indirectly from Claim 1 and are therefore distinguished from the cited prior art for at least the reasons provided above with respect to Claim 1.

Again, determining whether authorization is required based on predetermined authorization criteria is not the same as temporarily suspending the verification process. If the Examiner agrees that these functions are different, but thinks Applicant's claims do not clearly recite this difference, then Applicant will be willing to consider any amendments that clarify the

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distinction without unduly limiting the scope of the claims. In this regard, Applicant respectfully requests the constructive assistance of the Examiner in formulating acceptable language.

Claims 17-22, 24-25, 27, 30-38, 40-41, 43, 46-48:

As previously amended, Claim 17 recites:

... receiving instructions from said account-holder to selectively enable or disable said step of electronically verifying said transaction approval request. . .

Applicant respectfully asserts that Claim 17 is distinguishable over the prior art of record for at least the same reasons provided above with respect to amended Claim 1.

Claims 18-22, 24-25, 27, 30-38, 40-41, 43, and 46-48 depend either directly or indirectly from Claim 17, and are, therefore, distinguishable from the cited references for at least the same reasons.

Claims 16, 32, 50 and 53-54:

As amended herein, Claim 16 recites:

16. A computer system according to Claim 1, wherein said authorization module is further operative to:
transmit a verification request identifying said transaction approval request to a third-party that verifies transaction approval requests with said account-holder; and
receive indicia of verification from said third-party indicating whether said account-holder verified said transaction approval request.

As also amended herein, Claim 32 recites:

32. A method according to Claim 17, wherein said step of electronically verifying said transaction approval request with said account-holder includes:
transmitting a verification request identifying said transaction approval request to a third-party for verifying said transaction approval request with said account-holder; and
receiving indicia of verification from said third-party indicating whether said account-holder verified said transaction approval request.

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Applicant believes that Claims 16 and 32 may have still been unclear as previously amended. In particular, the language of these claims was somewhat strained in order to claim the third party verification embodiment in a dependent claim. Therefore, Claims 16 and 32 are amended herein for clarity.

Claims 16, 32, 50, and 53-54 are further distinguishable from the cited prior art for the reasons set forth above in the interview summary of the Examiner Interview held November 19, 2003. In particular, the prior art does not disclose a system or method wherein the verification process is performed by a system remote from the system performing the conventional credit approval. Indeed, during the interview the Examiner (Examiner Kemper) indicated that this was the clearest distinction between Applicant's invention and the prior art.

For the above reasons, Applicant respectfully asserts that Claims 16, 32, 50, and 53-54 distinguish over the prior art of record.

Claims 8-12, 24-27, 40-43, 49, and 51-52:

Claims 8, 24, 49, and 51 are further distinguishable from the cited prior art for the reasons set forth above in the interview summary of the Examiner Interview held November 19, 2003. In particular, the prior art does not disclose a system or method wherein the account-holder initiates the verification process without any prior notification from the credit card company.

Claims 9-12, 25-27, 40-43, and 52 depend either directly or indirectly from one of Claims 8, 24, and 51, and are therefore distinguishable over the cited references for at least the same reasons.

For the above reasons Applicant requests reconsideration and withdrawal of all rejections under 35 U.S.C. § 102.

Rejections Under 35 U.S.C. § 103

Claims 7 and 23 are rejected under 35 U.S.C. § 103 as being unpatentable over Blonder et al.. Claims 8-12, 15, 24-28, 31, 39-45, and 47 are rejected under 35 U.S.C. § 103 as being unpatentable over Blonder et al. in view of Joao et al.

Applicant respectfully traverses. In particular in order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all of

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the claim limitations. M.P.E.P. §2143. However, as indicated above with respect to Claims 1 and 17, the cited references do not teach or suggest all of the limitations of the base claims. Thus, no *prima facie* case of obviousness is established with respect to the dependent claims.

For the above reasons Applicant requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

Comments on New Reference Cohen

As indicated above, the Examiner informed Applicant's attorney of newly found reference USPN 6,422,462 (Cohen). Applicant has reviewed that reference, and respectfully asserts that the pending claims are allowable over the reference for the following reasons.

I. Performing Verification via a Remote Server

Cohen clearly does not disclose performing verification via a third-party verification server.

II. Account-holder Enablement/Disablement of the Verification Function

The only part of Cohen that relates to user verification of a transaction is Column 7, Lines 1-19. The above passage describes a verification feature that can be applied to a custom or disposable (single use) credit card number. However there is no indication that the verification function can be selectively enabled or disabled by the user. Cohen does not disclose a system including a module that "responsive to instructions from said account-holder is operative to automatically verify subsequent transaction approval requests without further input from said account-holder," as recited by Claim 1. Similarly, Cohen does not disclose a method for verifying a transaction including the step of "transmitting an approval to said merchant only if said transaction approval request is verified by said account-holder or said step of electronically verifying said transaction approval request has been disabled," as recited by Claim 17. Cohen does disclose, at Column 13, Lines 15-30, that custom cards can be converted to regular cards, and vice versa. However, there is no indication that if a customized card subject to the verification feature were converted to a regular card, that the verification function would be automatically disabled. Rather, it appears that the customization of the card and the verification feature, which can be applied to both customized and disposable cards, are two separate features.

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III. Verification Process Initiated by the Account-holder

The above-cited passage (Col. 7, Lines 1-19) of Cohen describing the verification function indicates that "the user would have to call into the credit card company to verify the transaction, or the credit card company would call the user at a predetermined number ..." However, Claims 8, 24, 49, and 51 refer to disabling any notification to the account-holder. Cohen does not disclose preventing notification to the account-holder, only that the user may call the company or the company may call the user.

For at least the reasons provided above, Applicant avers that all of the pending claims are valid over the Cohen reference.

For the foregoing reasons, Applicant believes Claims 1-12, 14-28, 30-44, and 46-54 are in condition for allowance. Should the Examiner undertake any action other than allowance of Claims 1-12, 14-28, 30-44 and 46-54, or if the Examiner has any questions or suggestions for expediting the prosecution of this application, the Examiner is requested to contact Applicant's attorney at (269) 279-8820.

Respectfully submitted,

Date: 11/23/04


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